REMARKS

The application has been amended in a manner to place it in condition for allowance.

Status of the Claims

Claim 13 has been amended to further include in the proviso that R_1 and R_4 cannot be a fluorine atom (i) when R_2 or R_3 is the hydroxyl group or the halogen atom <u>and</u> (ii) when R_2 and R_3 are $-N(CH_3)_2$.

Support for the amendment may be found, for example, in original claim 13 and at page 11, line 255 to page 12, line 276. Originally disclosed formula 1 defines a finite number of alternative structures, and the new proviso language explicitly excludes specific structures from the definition of formula 1, i.e., wherein R_1 and R_4 each is a fluorine atom when R_2 or R_3 is the hydroxyl group, the halogen atom and when R_2 and R_3 are each $-N(CH_3)$. See *In re Johnson*, 558 F.2d 1008, 1019, 194 USPQ 187, 196 (CCPA 1977); *Ex parte Grasselli*, 231 USPQ 393 (Bd. App. 1983), *aff'd mem.*, 738 F.2d 453 (Fed. Cir. 1984); M.P.E.P., Eighth Ed., Rev. 6 (September 2007) at § 2173.05(i).

Claim 13 remains pending.
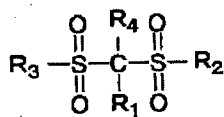
Claim Rejections-35 USC §102

Claim 13 was rejected under 35 U.S.C. § 102(b) as being anticipated by SCHMIDT KR2001-0067251 (SCHMIDT), based

on the Derwent abstract, CAS citation, and machine translation of the document. This rejection is respectfully traversed for the reasons below.

SCHMIDT was offered for teaching the following compound:

$$Me_2N - \overset{\overset{O}{\|}}{\underset{\underset{O}{\|}}{S}} - CF_2 - \overset{\overset{O}{\|}}{\underset{\underset{O}{\|}}{S}} - NMe_2$$
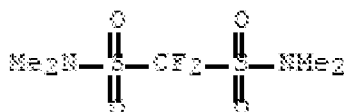
However, the present amendment to claim 13 excludes this situation, for

$$R_3 - \overset{\overset{O}{\|}}{\underset{\underset{O}{\|}}{S}} - \overset{\overset{R_4}{|}}{\underset{\underset{R_1}{|}}{C}} - \overset{\overset{O}{\|}}{\underset{\underset{O}{\|}}{S}} - R_2$$

wherein R_1 and R_4 <u>cannot</u> be a fluorine atom when R_2 or R_3 is the hydroxyl group or the halogen atom <u>and when R_2 and R_3 are each</u> <u>$-N(CH_3)_2$</u>.

Therefore, SCHMIDT fails to anticipate the claimed invention, and withdrawal of the rejection is respectfully requested.

Claim 13 was rejected under 35 U.S.C. § 102(a) and § 102(e) as being anticipated by SUZUKI JP2004-193408 (SUZUKI), based on the Derwent abstract, CAS citation, and JPO Abstract. This rejection is respectfully traversed for the reasons below.

§ 102(a)

SUZUKI has a publication date of August 7, 2004. The present application claims priority to JP2003-416516, which was filed December 15, 2003. Applicant perfected the claim to priority by filing a verified English translation of the priority document on January 11, 2011. Accordingly, SUZUKI does not qualify as prior art under 35 U.S.C. § 102(a).

§ 102(e)

SUZUKI also fails to qualify as prior art under 35 U.S.C. § 102 (e). SUZUKI is a Japanese patent application. It is neither a U.S. application nor an international application that designates the U.S., published under Article 21(2) and is in English. Thus, SUZUKI cannot have a § 102 (e) date.

Therefore, SUZUKI is not prior art, and withdrawal of the rejection is respectfully requested.

Double Patenting Rejection

Claim 13 stands provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1 and 12 of copending US Application No. 10/582,855.

Since the rejection is provisional, it is, again, respectfully requested that the rejection be held in abeyance

until allowance of the instant application or the copending application, in accordance with US practice.

Conclusion

In view of the amendment to the claims, the perfecting of Applicant's claim to priority and the foregoing remarks, this application is in condition for allowance at the time of the next Official Action. Allowance and passage to issue on that basis is respectfully requested.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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